

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

ROBERT EARL FOSTER, )  
v. Plaintiff, ) Case No. 2:12-CV-04324-MJW  
DAN WRIGHT, )  
Defendants. )

**MOTION FOR JUDGMENT AS A MATTER OF LAW AT THE CLOSE OF  
PLAINTIFF'S EVIDENCE**

Pursuant to F.R.Civ.P. 50(a), defendant Dan Wright moves this Court for entry of judgment as a matter of law in his favor at the close of plaintiff's evidence. As grounds for this motion, defendant states the following:

1. On plaintiff's claim of unreasonable seizure of his person under the Fourth Amendment, the evidence has failed to establish that defendant Wright used more force than was reasonably necessary to transport plaintiff. See *Graham v. Connor*, 490 U.S. 386, 394-95 (1989).
2. On plaintiff's claim of unreasonable seizure of his person under the Fourth Amendment, the evidence has established that defendant Wright is entitled to qualified immunity because defendant Wright did not violate any clearly established constitutional right and therefore he is entitled to qualified immunity. See *Parks v. Pommeroy*, 387 F. 3d 949, 957-58 (8<sup>th</sup> Cir. 2004).
3. There is no evidence to support submission of a claim for future damages.
4. The evidence has failed to establish a basis for awarding punitive damages against defendant Wright on plaintiff's Section 1983 claim. The evidence has failed to show that

defendant's conduct was motivated by evil motive or intent, or involved reckless or callous indifference to the federally protected rights of others. See Smith v. Wade, 461 U.S. 30, 56 (1983).

WHEREFORE, defendant Dan Wright moves this Court for entry of judgment as a matter of law in his favor at the close of plaintiff's evidence, and for such further relief as this Court deems proper.

Respectfully submitted,

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By:

  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 12, 2014, I filed the foregoing with the Clerk of the United States District Court and hand delivered a copy in open court to plaintiff's counsel Brent Dwerlkotte.

